

**REQUEST FOR PROPOSALS
(RFP)**

ISSUE DATE: March 5, 2010

TITLE: Workers' Compensation Program Auditing Services
OWC10-01

ISSUING AGENCY: Commonwealth of Virginia
Department of Human Resource Management
James Monroe Building, 13th Floor
101 North 14th Street
Richmond, Virginia 23219

PERIOD OF CONTRACT: From July 1, 2010 through June 30, 2013, with two one-year renewal options.

Sealed proposals for furnishing services described herein will be received subject to the conditions cited herein until 2:00 p.m., March 31, 2010

All Inquiries Must Be In Writing And Should Be Directed To:

Mr. Dan Hinderliter
Department of Human Resource Management
101 North 14th Street, 13th Floor
Richmond, Virginia 23219
E-Mail: dan.hinderliter@dhrm.virginia.gov

SEND ALL PROPOSALS DIRECTLY TO THE ISSUING AGENCY ADDRESS SHOWN ABOVE.

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 11-35.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

In compliance with this Request for Proposals, and to all the conditions imposed therein and hereby incorporated by reference, the undersigned offers and agrees to furnish materials and services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation.

Name and Address of Firm:

_____	Date: _____
_____	By: _____
_____	(PRINTED NAME)
_____	(SIGNATURE IN INK)
_____ Zip Code: _____	Title: _____
Fax Number: () _____	Telephone: () _____

PRE-PROPOSAL CONFERENCE: An OPTIONAL pre-proposal conference will be held at 10:00 a.m. on Wednesday March 17, at the James Monroe Building Conference Room E. (Reference Paragraph XIII. herein.)

I. PURPOSE

The purpose of this Request for Proposals (RFP) is to solicit sealed proposals to establish a contract through competitive negotiation for accounting services, including auditing and reporting services. The Contractor will monitor the service organization providing Workers' Compensation Program (WCP) services to the Commonwealth of Virginia, Department of Human Resource Management's (DHRM) Workers' Compensation Services (WCS).

II. BACKGROUND

The Virginia Workers' Compensation Commission (WVC) governs the administration of the Virginia Workers' Compensation Act. Workers' Compensation Services within the Department of Human Resource Management (DHRM), is responsible for administering the Workers' Compensation Program for the Commonwealth of Virginia employees. WCS serves as the claims administrator for the employers and agencies of the Commonwealth.

WCS is responsible for investigating all claims to determine if they meet the requirements for workers' compensation as well as developing and implementing loss control programs to prevent accidents and reduce on the job injuries and illness.

Effective May 1, 1998, WCS entered a contractual relationship to outsource the Commonwealth's workers' compensation and cost containment program. The contract was awarded to Managed Care Innovations (MCI), of Richmond, Virginia to provide for the following claims and cost containment services:

- | | | |
|-------------------------------|-------------------------------|----------------------------------|
| 1. Program Management | 2. Loss Control | 3. Claims Administration |
| 4. Claims reporting | 5. Surveillance | 6. PPO Network |
| 7. Pharmacy Network | 8. Durable Medical Equipment | 9. Home Health Care |
| 10. Medical Management | 11. Vocational Rehabilitation | 12. Payroll Classification Audit |
| 13. Medical Bill Adjudication | | |

The Workers' Compensation Cost Containment program has been developed utilizing several organizations of specialty services structured under contract to MCI and reporting to WCS. Avizent has been contracted by MCI to perform the claims administration and comprehensive cost containment services. Sedgwick Claims Management Services, Inc. has been contracted by MCI to provide bill adjudication and PPO services. The performance period for the current contract between DHRM and MCI is 7/1/08 – 6/30/11, with an option to renew for two successive one-year periods. MCI's sub-contractor for claims administration, Avizent, processes claims in Richmond at the offices of WCS. In Fiscal year 2009 WCS had 9,521 claims and 115,015 checks issued.

III. POLICY REGARDING PARTICIPATION OF SMALL BUSINESSES

A. It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and Small businesses owned by women and minorities and to encourage their participation in State procurement activities. The Commonwealth encourages Contractors to provide for the participation of small businesses and small businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities. Submission of a report of past efforts to utilize the goods and services of such businesses and plans for involvement on this contract are required.

- B. All information requested by this RFP on the ownership, utilization, and planned involvement of small businesses, women owned businesses, and minority owned businesses must be submitted. If an Offeror fails to submit all information requested, the purchasing agency will require prompt submission of missing information after the receipt of vendor proposals in order for a non-compliant proposal to be considered.
- C. By submitting a proposal, Offerors certify that all information provided in response to this RFP is true and accurate. Failure to provide information required by this RFP will ultimately result in rejection of the proposal.

IV. TASKS

- A. An annual or as required SAS 70 (Type II) audit for Fiscal Years ending June 30 to also include additional controls assessment and substantive testing. All audits of the service organization shall result in a report on the controls placed in operation and tests of operating effectiveness. The report is to be completed by November 15th following the end of the fiscal year. Performance of the audit and the resulting report shall be in accordance with all applicable professional standards.
- B. Audit of the reported loss payment figure to determine if the loss payments are accurately stated and include all loss payments for the last ended fiscal year. Performance of the audit and the resulting report shall be in accordance with all applicable professional standards.
- C. In addition, all work products should include the following information where applicable:
 - 1. Identification that the audit is in accordance with generally accepted auditing standards.
 - 2. A description of the scope and nature of the service auditor's procedures.
 - 3. Identification of the goals and objectives of the audit.
 - 4. Identification of methodology.
- D. Perform auditing/accounting services as required.

V. PROCUREMENT PROCEDURES

A. METHOD OF AWARD

The Department is to engage in individual discussions with two or more offerors deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews are permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. Such discussions may also include non-binding estimates of total project costs, including but not limited to where appropriate, design, construction and life cycle costs. Non-binding methods to be utilized in arriving at a price for services may also be discussed. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussions outlined in this paragraph, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the procuring agency shall select, in the order of preference, two or more offerors whose professional qualifications and

proposed services are deemed most meritorious. Negotiation shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiation with the offeror ranked first shall be formally terminated and negotiation conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the procuring agency determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror (Code of Virginia, § 2.2-4301). At any time during the negotiations, the procuring agency may terminate all negotiations and re-advertise the requirements. The reason for such termination is to be made a part of the file.

The contract will incorporate by reference all the requirements, terms and conditions of this RFP and the Contractor's proposal, except as either or both may be amended through negotiation.

VI. SUBMISSION OF WRITTEN PROPOSALS

The RFP cover sheet and all addenda acknowledgments, if any, signed and completely filled out shall be returned with each proposal.

All proposals must be responsive to both the task descriptions and contractual requirements contained herein. Proposals, which are deemed to be non-responsive, may not be considered. Proposals must be typed. An original, five copies and a disk containing a version labelled "Redacted" shall be delivered in a sealed box, and labeled as a proposal, with the words "Do Not Open" prominently displayed on the box. The "Redacted" version of the proposal shall exclude any proprietary and confidential information. Proposals must be received no later than 2:00 p.m., local prevailing time, as determined by the Department in its sole discretion, on March 31, 2010, by:

Mr. Dan Hinderliter
Department of Human Resource Management
James Monroe Building, 13th Floor
101 North 14th Street
Richmond, Virginia 23219

Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.

Ownership of all data, materials and documentation originated and prepared for the Department pursuant to the RFP shall belong exclusively to the Department and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protections of Section 2.2-4342 of the Code of Virginia, in writing, at the time the data or other material is submitted. A redacted version of the proposal shall be submitted which excludes the protected information. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is appropriate. The proprietary or trade secret material submitted must be identified by some distinct

method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal. The Department, in its sole discretion, may not consider proposals with unduly broad requests for protection against disclosure.

VII. MODIFICATION OF PROPOSALS

Any changes, amendments or modifications of an Offeror's proposal prior to the deadline for receipt of proposals must be in writing and submitted in the same manner as the original proposals. All modifications must be labeled conspicuously as a change, amendment, or modification of the previously submitted proposal. Changes, amendments, or modifications of proposals will not be considered after the deadline for receipt of proposals, except when modifications are requested by the Department.

VIII. ORAL PRESENTATION

Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the Department. This provides an opportunity for the Offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. The Department will schedule the time and location of these presentations. Oral presentations are an option of the Department and may or may not be conducted.

IX. INQUIRIES CONCERNING THE RFP

Any communication concerning this RFP or any resulting contracts must be addressed in writing to:

Mr. Dan Hinderliter
Department of Human Resource Management
James Monroe Building, 13th Floor
101 North 14th Street
Richmond, Virginia 23219
E-mail Address: dan.hinderliter@dhrm.virginia.gov

X. PUBLIC INSPECTION OF PROCUREMENT RECORDS

Proposals will be subject to public inspection only in accordance with Section 2.2-4342 of the Code of Virginia.

XI. CLARIFICATION OF PROPOSAL INFORMATION

The Department reserves the right to request verification, validation or clarification of any information contained in any of the proposals. This clarification may include checking references and securing other data from outside sources, as well as from the Offeror.

XII. REFERENCE TO OTHER MATERIALS

The Offeror cannot compel the Department to consider any information except that which is contained in its proposal, or which is offered in response to a request from the

Department. The Offeror should rely solely on its proposal. The Department, however, reserves the right, in its sole discretion, to take into consideration its prior experience with Offerors and information gained from other sources.

XIII. OPTIONAL PRE-PROPOSAL CONFERENCE

An optional pre-proposal conference will be held at 10:00 a.m. on Wednesday, March 17, 2010, in the James Monroe Building, Main Lobby, Conference Room E, 101 North 14th Street, Richmond, Virginia. The purpose of this conference is to allow potential Offerors an opportunity to present questions and to obtain clarification relative to any facet of this procurement.

It is requested that any known questions regarding the RFP be forwarded to Dan Hinderliter prior to date of conference to facilitate the conference. E-Mail dan.hinderliter@dhrm.virginia.gov .

While attendance at this conference will not be a prerequisite to submitting a proposal, offerors who intend to submit a proposal are encouraged to attend. Offerors should bring a copy of this RFP to the conference. Any changes resulting from this conference will be issued in a written addendum to the RFP. Attendance at the conference will be documented by the representative's signature on the attendance roster.

Anyone desiring a copy of any amendments issued to this RFP including questions and answers arising from the Offerors' conference shall email a request providing name, firm, and email address to Dan Hinderliter at dan.hinderliter@dhrm.virginia.gov

XIV. TIMETABLE

RFP Published	-	March 5, 2010
Optional Pre-Proposal Conference	-	March 17, 2010
Proposals Due, 2:00 P.M.	-	March 31, 2010
Notice of Intent to Award	-	May 19, 2010

XV. CRITERIA FOR EVALUATION

The criteria for award in no particular order include the following:

Qualifications and experience of Offeror in providing the services required by this RFP	-	40%
References from clients	-	10%
Specific plans or methodology to be used in performing the services stated	-	20%
Quality and applicability of other services offered	-	10%
Participation of small, women and minority owned businesses.	-	20%

PLEASE NOTE THAT THE OFFEROR'S ADHERENCE TO THE FORM OF RESPONSE REQUESTED BY THIS RFP MAY BE USED TO MEASURE THE CAPABILITY OF THE OFFER.

XVI. DELIVERABLES

The Contractor shall deliver only those services resulting from this RFP which are mutually agreed upon by the Department and the Contractor. The Department will accept and

pay only for those services which meet the quality standards required by the contract and which have been fully rendered.

XVII. REPORTS

A. UTILIZATION OF SMALL BUSINESSES

1. Periodic Progress Reports/Invoices. Within sixty days of each six months' operation under this contract, disclose the actual dollars contracted to be spent to-date with such businesses, and the total dollars planned to be contracted with such businesses on this contract. This information shall be provided separately for small businesses, women-owned businesses and minority-owned businesses.

2. Final Actual Involvement Report: The Contractor will submit, prior to completion of the contract and prior to final payment, a report on the actual dollars spent with small businesses, women-owned and minority-owned businesses during the performance of this contract. At a minimum, this report shall include for each firm contracted with and for each such business class (i.e., comparison of the total actual dollars spent on this contract with the planned involvement of the firm and business class as specified in the proposal, and the actual percent of the total estimated contract value. A suggested format is as follows:

Business Class: Small, Small Women-Owned or Small Minority-Owned

FIRM NAME, ADDRESS AND PHONE NUMBER	TYPE GOODS/ SERVICES	ACTUAL DOLLARS	PLANNED DOLLARS	%OF TOTAL CONTRACT
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTALS FOR BUSINESS CLASS		_____	_____	_____

XVIII. GENERAL TERMS AND CONDITIONS

A. VENDORS MANUAL

This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.dgs.state.va.us/dps under "Manuals."

B. APPLICABLE LAWS AND COURTS

This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (Code of Virginia, § 2.2-4366). ADR procedures are described in Chapter 9

of the Vendors Manual. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

C. ANTI-DISCRIMINATION

By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

1. During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

D. ETHICS IN PUBLIC CONTRACTING

By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

E. IMMIGRATION REFORM AND CONTROL ACT OF 1986

By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

F. DEBARMENT STATUS

By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

G. ANTITRUST

By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR RFPs

Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. CLARIFICATION OF TERMS

If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact Dan Hinderliter dan.hinderliter@dhrm.virginia.gov no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. PAYMENT

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last.

This shall not affect offers of discounts for payment in less than 30 days, however.

- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
 - d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
 - e. Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (Code of Virginia, § 2.2-4363).
2. To Subcontractors:
- a. A contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
 - b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.
3. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and

certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

K. PRECEDENCE OF TERMS

The following General Terms and Conditions VENDORS MANUAL, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

L. QUALIFICATIONS OF OFFERORS

The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

M. TESTING AND INSPECTION

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

N. ASSIGNMENT OF CONTRACT

A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

O. CHANGES TO THE CONTRACT

Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the

scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
- b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

P. DEFAULT

In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

Q. INSURANCE

By signing and submitting a bid or proposal under this solicitation, the offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the Code of Virginia. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all

insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

R. MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS

1. Workers' Compensation – Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability – \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability – \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

NOTE: In addition, various Professional Liability/Errors and Omissions coverages are required when soliciting those services as follows:

<u>Profession/Service</u>	<u>Limits</u>
Accounting	\$1,000,000 per occurrence, \$3,000,000 aggregate
Architecture	\$2,000,000 per occurrence, \$6,000,000 aggregate
Asbestos Design, Inspection or Abatement Contractors	\$1,000,000 per occurrence, \$3,000,000 aggregate
Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals or Health Maintenance Organizations.)	\$1,925,000 per occurrence, \$3,000,000 aggregate
Limits increase each July 1 through fiscal year 2008, as follows:	
July 1, 2008 - \$2,000,000. This complies with §8.01-581.15 of the <u>Code of Virginia</u>	
Insurance/Risk Management	\$1,000,000 per occurrence, \$3,000,000 aggregate
Landscape/Architecture	\$1,000,000 per occurrence, \$1,000,000 aggregate
Legal	\$1,000,000 per occurrence, \$5,000,000 aggregate
Professional Engineer	\$2,000,000 per occurrence, \$6,000,000 aggregate
Surveying	\$1,000,000 per occurrence, \$1,000,000 aggregate

S. ANNOUNCEMENT OF AWARD

Upon the award or the announcement of the decision to award a contract, as a result of this solicitation, the purchasing agency will publicly post such notice on the DHRM website www.dhrm.virginia.gov and DGS/DPS eVA web site (www.eva.virginia.gov) for a minimum of 10 days.

T. DRUG-FREE WORKPLACE

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

U. NONDISCRIMINATION OF CONTRACTORS

A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

V. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION

The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders or offerors must register in eVA; failure to register will result in the bid/proposal being rejected.

1. eVA Basic Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, electronic bidding, and the ability to research historical procurement data available in the eVA purchase transaction data warehouse.
2. eVA Premium Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments.
3. For orders issued prior to August 16, 2006, the Vendor Transaction Fee is 1%, capped at a maximum of \$500 per order.
4. For orders issued August 16, 2006 and after, the Vendor Transaction Fee is:
 - a. DMBE-certified Small Businesses: 1%, capped at \$500 per order.
 - b. Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.

W. AVAILABILITY OF FUNDS

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

XIX. SPECIAL TERMS AND CONDITIONS

A. COST LIMITS

The Contractor is responsible for all the costs of implementing and administering the program. The Department is responsible for ensuring that the Contractor receives payment of all fees that are established pursuant to the contract which results from this RFP. Any cost incurred by the Contractor to address the tasks and responsibilities identified in this RFP which exceeds the contractually established fees is the risk of the Contractor.

B. TERM/RENEWAL OF CONTRACT

1. The term of this contract is July 1, 2010 through June 30, 2013 with two one-year renewal options.
2. This contract may be renewed by the Commonwealth for two (2) successive one-year periods under the terms and conditions of the original contract except as stated in 1. and 2. below. Price increases may be negotiated only at the time of renewal. Written notice of the Commonwealth's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
 - a. If the Commonwealth elects to exercise the option to renew the contract for an additional one-year period, the contract price for the additional one

year shall not exceed the contract price of the original increased/decreased by more than the percentage increase/decrease of the services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

- b. If during any subsequent renewal period, the Commonwealth elects to exercise the option to renew the contract, the contract price for the subsequent renewal period shall not exceed the contract price of the previous renewal period increased/decreased by more than the percentage increased/decreased of the services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

C. CANCELLATION OF CONTRACT

The Department reserves the right to cancel and terminate any resulting contract, in part or in whole without penalty, upon 60 days written notice to the Contractor. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

D. PAYMENTS

The Contractor shall deliver only those services actually ordered by the Department. The Department will accept and pay only for those services which have been fully rendered. The Contractor shall invoice the Department each month for services provided during the prior month. Payment will be made by the Department within 30 days of receipt of an approved invoice by the Commonwealth's EDI payment method. Refer to Attachment Three for EDI information.

E. AUDITS

1. The Contractor shall assist the Department and the Department's auditors, who may be employees of the Department, employees of other Contractors, or agents of the Department, in the conduct of audits. This assistance shall include the provision of secure, quiet office space, including furnishings and telephones needed by the auditors.
2. The Contractor agrees to retain all books, records, and other documents relative to the contract which results from this RFP for five (5) years after final payment, or until the conclusion of any audit by the Commonwealth, whichever is sooner. The Department, its authorized agents, and State Auditors, shall have full access to, and the right to examine, any of the Contractor's materials relevant to the contract which results from this RFP.

F. CONTRACT REPRESENTATIVES

Both the Department and the Contractor shall appoint a contract representative who shall ensure that the provisions of this contract are adhered to. The Department hereby appoints the Director, Workers' Compensation Services. Currently, the position is held by Kristie McClaren.

G. CERTIFIED CORPORATE ANNUAL REPORTS

Within 120 days of the close of its fiscal year, the Contractor shall furnish to the Department an annual report of its consolidated operations. This report shall be certified by an independent auditor.

H. CONFIDENTIALITY OF INFORMATION

The Contractor shall treat all information utilized in its performance of the contract as confidential, personal information. The Contractor shall handle all confidential information in accordance with the Virginia Privacy Protection Act, Virginia Code Section 2.1-377 et seq. All files, computer data bases and other records developed or maintained pursuant to the execution of the contract are the property of the Department, and shall be delivered to the Department upon demand. The Contractor merely serves as the custodian of the files, and acts as agent for the Department in the payment for services and the performance of other assigned tasks, including assisting the Department with requests under the Virginia Freedom of Information Act.

The Contractor as an agent of the Department must be HIPAA compliant, including but not limited to privacy, as would be required by the Department for any functions performed under this contract.

I. SEVERABILITY

In the event any portion of the contract shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed void and the remainder of the contract shall continue in full force and effect.

J. FORCE MAJEURE

Neither party shall be deemed to be in default of any of its obligations hereunder, if, and so long as, it is prevented from performing such obligations by an act of war, hostile foreign action, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

K. SUBCONTRACTING

The Contractor is fully responsible for all work performed under the contract. The Contractor may not assign, transfer, or subcontract any interest in the contract, without prior written approval of the Department. The Contractor shall require all subcontractors to comply with all provisions of this RFP. The Contractor will be held liable for contract compliance for all duties and functions whether performed by the Contractor or any subcontractor.

L. DISPUTES

In accordance with section 2.2-4363 of the Code of Virginia, disputes arising out of the contract, whether for money or other relief, may be submitted by the Contractor for consideration by the Department. Disputes must be submitted in writing, with all

necessary data and information, to the Director of the Department of Human Resource Management at the James Monroe Building, 12th Floor, 101 North 14th Street, Richmond, Virginia 23219. Disputes will not be considered if submitted later than sixty (60) days after the final payment is made by the Department under the contract. Further, no claim may be submitted unless written notice of the Contractor's intention to file the dispute has been submitted at the time of the occurrence or at the beginning of the work upon which the dispute is based. The Department shall render a final written decision regarding the dispute not more than ninety (90) days after the dispute is submitted, unless the parties agree to an extension of time. If the Department does not render its decision within 90 days, the Contractor's sole remedy will be to institute legal action, pursuant to section 2.2-4364 of the Code of Virginia. The Contractor shall not be granted relief as a result of any delay in the Department's decision.

During the time that the parties are attempting to resolve any dispute, each party shall proceed diligently to perform its duties.

M. CONTRACTOR AFFILIATION

If an affiliate (as defined below in this paragraph) of the Contractor takes any action which, if taken by the Contractor, would constitute a breach of the contract, the action taken by the affiliate shall be deemed a breach by the Contractor. "Affiliate" shall mean a "parent," subsidiary or other company controlling, controlled by, or in common control with the Contractor, subContractor or agents of the Contractor.

N. TRANSFER OF FILES

If for any reason the Department decides to no longer contract with the Contractor, the Contractor agrees to transfer to the party designated by the Department, at no cost, all data, records, computer files, other files, and materials of any sort that were maintained for the Commonwealth. The Contractor agrees to assist the Department in understanding, using, and transferring all files and records, including those maintained in computer language.

O. ADVERTISING

In the event a contract is awarded as a result of this RFP, the Contractor shall not advertise that the Commonwealth of Virginia, or any agency or institution of the Commonwealth, has purchased, or uses its products or services.

P. INDEMNIFICATION

The Contractor agrees to indemnify, defend, and hold harmless the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages, and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any services of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the Department.

Q. AVAILABILITY OF FUNDS

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter

become available for the purpose of this agreement.

R. COSTS

Cost information is not to be submitted with an Offeror's proposal, as it is not part of the evaluation criteria. However, it will be part of the negotiations with the finalists. The following information reflects the desires of the Department and will be finalized and part of the resulting contract.

1. Provide by professional class, the hourly billing rates to be used for each of the 3 years covered by this RFP.
2. For Task 4.1, SAS 70 (Type II), the Department desires a flat fee for this task.
3. For the remaining tasks, provide a projection of the primary professional and non- professional classes of employees to be utilized in providing the services procured and their hourly billing rate.

S. WORKERS' COMPENSATION PROGRAM AUDITING SERVICES QUESTIONNAIRE

Complete the information requested on Attachment One

T. PARTICIPATION OF SMALL, WOMEN, AND MINORITY OWNED BUSINESSES

Complete the information required on Attachment Two. State the location in your proposal of your response to this requirement.

ATTACHMENT I

Commonwealth of Virginia
Workers' Compensation Services Procurement

WORKERS' COMPENSATION PROGRAM AUDITING SERVICES

Completion of this questionnaire and its referenced supporting attachments will constitute each Offeror's Technical Proposal for the services described in this RFP:

Please provide a direct response to all of the questions below and follow directions for submission of supporting attachments. Attachments should be provided, in order, following your Questionnaire responses. Please note that Cost related information (Section 11 and its attachments) are for Offeror's information only and are not to be submitted with each proposal package. The Cost information provided gives the Department's requirements that will be a part of the final negotiations. If a given response is lengthy or responsive to more than one question, provide a brief cross reference to an attachment (or the similar response to another question). Your responses should be contained in a loose-leaf notebook and not be bound. Systems' documentation, and other well organized, clear charts or exhibits may serve in lieu of narrative.

The RFP describes Tasks and the requirement thereof. Under the appropriate evaluation section below, you will be requested to affirm that you will fully understand and will meet these requirements as stated. Be advised that failure to identify any deviation in response to the appropriate question constitutes a representation on the Offeror's part that the requirements will be met precisely as written. Your response must also contain any demurrals and the reasons therefore. The absence of demurrals shall constitute a representation that the Offeror will provide services and reports exactly as requested by the Department.

A. QUALIFICATIONS AND EXPERIENCE OF OFFEROR

In 500 words or less describe the Offeror's qualifications in performing SAS 70 (type II) audits, Include the experience of your company in performing these audits.

Provide your company's organizational structure along with its history.

Provide resumes of the proposed personnel for this contract along with their specific experience and expertise in SAS 70 (type II) audits.

Submit a sanitized copy of a recently completed SAS 70 (type II) audit of a company of similar size as WCS.

B. REFERENCES

On a separate sheet of paper conspicuously labeled "Clients," list three current and at least two former clients, of similar size and scope of the Commonwealth, with whom SAS 70 (type II) audits have been performed. Give the following information for each qualifying client.

1. Name and address of the client.

2. Name and telephone number of client contact.
3. Services provided to client, type of audit, number of transactions and period covered.
4. An indication if this is a current or former client and an indication if this client (current or former) has given you permission to be named as a reference.

C. SPECIFIC PLANS

1. Give a brief overview of your proposed plan to provide the services required in the RFP.

Address specifically your experience in performing similar services such as audits resulting in reports on controls placed in operations and tests of operational effectiveness; performance of those audits of a third party administrator organization, preferably workers' compensation and in a governmental environment.

2. Provide specific methodology to be used in providing the required services.
3. Provide documentation on other applicable services offered by your firm addressing the quality of work performed.

ATTACHMENT II

Small Business Subcontracting Plan

Definitions

Small Business: "Small business " means an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. Note: This shall not exclude DMBE-certified women- and minority-owned businesses when they have received DMBE small business certification.

Women-Owned Business: Women-owned business means a business concern that is at least 51% owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or non-citizens who are in full compliance with the United States immigration law.

Minority-Owned Business: Minority-owned business means a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

All small businesses must be certified by the Commonwealth of Virginia, Department of Minority Business Enterprise (DMBE) by the due date of the solicitation to participate in the SWAM program. Certification applications are available through DMBE online at www.dmb.e.virginia.gov (Customer Service).

Offeror Name: _____

Preparer Name: _____ **Date:** _____

Instructions

- A. If you are certified by the Department of Minority Business Enterprise (DMBE) as a small business, complete only Section A of this form. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification.
- B. If you are not a DMBE-certified small business, complete Section B of this form. For the offeror to receive credit for the small business subcontracting plan evaluation criteria, the offeror shall identify the portions of the contract that will be subcontracted to DMBE-certified small business in this section. Points will be assigned based on each offeror’s proposed subcontracting expenditures with DMBE certified small businesses for the initial contract period as indicated in Section B in relation to the offeror’s total price.

Section A

If your firm is certified by the Department of Minority Business Enterprise (DMBE), are you certified as a **(check only one below)**:

- _____ Small Business
- _____ Small and Women-owned Business
- _____ Small and Minority-owned Business

Certification number: _____ Certification Date: _____

Section B

Populate the table below to show your firm's plans for utilization of DMBE-certified small businesses in the performance of this contract. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received the DMBE small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.

B. Plans for Utilization of DMBE-Certified Small Businesses for this Procurement

Small Business Name & Address DMBE Certificate #	Status if Small Business is also: Women (W), Minority (M)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Involvement During Initial Period of the Contract	Planned Contract Dollars During Initial Period of the Contract
Totals \$					